

JUVENILE DETENTION ALTERNATIVES INITIATIVE

NORFOLK, VIRGINIA

THE PURPOSE OF DETENTION

DETENTION SHOULD BE A CONTINUUM OF RESTRICTIONS AND SUPERVISION THAT RANGE FROM SECURE CUSTODY FOR DANGEROUS YOUTH TO LESS RESTRICTIVE ALTERNATIVES FOR YOUTH WHO POSE LITTLE RISK OF REOFFENDING AND NOT APPEARING IN COURT.

THE PROTECTION OF THE COMMUNITY AND ITS CITIZENS IS THE PARAMOUNT CONCERN IN ALL DECISIONS WHETHER TO UTILIZE SECURE DETENTION OR A DETENTION ALTERNATIVE PROGRAM.

I. SECURE DETENTION

DESCRIPTION/PURPOSE

Secure detention is the most secure of the available detention options. It takes place in a locked facility with eighty beds and features comparable to that of adult jails. Its purpose is to detain high risk, serious juvenile offenders while their case is processed by the Court or while they are awaiting transfer to state juvenile correctional facilities. In Virginia, juveniles can also be sentenced to detention post-dispositionally provided they meet certain specific criteria.

Youth held in secure detention are grouped (classified) based on gender, age and, to the degree possible, the nature of their offense.

CRITERIA for PLACEMENT

Section 16.1-248.1(A) of the Code of Virginia establishes criteria for placement of youth in secure detention. Briefly stated, these criteria are as follows :

- A. There must be probable cause to believe that the juvenile committed a felony or first class misdemeanor or, in the case of a violation of probation/parole, the charge (s) resulting in placement on probation/parole was a felony or first class misdemeanor and one or more of the following apply :
- Release of the juvenile would constitute a clear and substantial threat to the person or property of others.
 - Release of the juvenile would constitute a clear and substantial threat of serious harm to the juvenile's life or health.
 - The juvenile has threatened to abscond or has a record of willful failure to appear in court within the past twelve months.
 - The juvenile has previously absconded from a detention home or other facility placement ordered by a judge or intake officer.
- B. The juvenile is a fugitive from another state and is subject to a verified petition or warrant under provisions of the Interstate Compact.
- C. The juvenile has failed to appear in Court after having been duly served with a summons when charged with a delinquent or CHINS offense.

In addition to the criteria established by the Code, when an Intake Officer is considering placement of a detention eligible youth in secure detention, such officer must complete the Virginia Detention Assessment Instrument (DAI). For placement, the score on the DAI must be at least 15.

If placement is warranted for a score below 15, it must indicate aggravating circumstances approved by the Intake Supervisor or be a charge that falls within the range of the Court Service Unit's mandatory overrides which include weapons offenses, sex offenders and AWOL probation/parole violators. Scores above 15 may be mitigated to allow release or placement in a detention alternative program when the circumstances of the case justify this action.

While not specifically stated in the Code of Virginia, those involved in Norfolk's juvenile justice process agree that the following principles should regulate the use of pre-trial and pre-dispositional detention :

II . PRE-TRIAL & PRE-DISPOSITIONAL SECURE DETENTION:

In addition to the criteria set forth in Va. Code Section 16.1-248.1 addressed Above, there are two reasons for pre-trial and pre-dispositional secure detention.

- To prevent juveniles from committing additional offenses while charges are pending.
 - To ensure that juveniles appear in court.
- A. Detaining youth in secure detention prior to trial and disposition should be an option only for serious, violent and chronic offenders and for those who repeatedly fail to appear for scheduled court dates.
- B. Pre-trial and pre-dispositional secure detention is not appropriate for status offenders and certain other groups of offenders who are very young, vulnerable or first time offenders charged with non-serious offenses.
- C. Pre-trial and pre-dispositional secure detention should not be used as a punishment for the current offense or as a consequence for non-compliance with probation rules or court orders.
- D. Pre-trial and pre-dispositional detention should not be used to facilitate further interrogations or investigations or to allow more convenient administrative access to the juvenile.
- E. Pre-trial and pre-dispositional secure detention should not be used to treat or rehabilitate a juvenile.
- F. Pre-trial or pre-dispositional secure detention should not be used to allow a parent to avoid his or her legal responsibilities, ie. refuse to come to Intake or Court or to take their child home if deemed appropriate by authorities.
- G. Pre-trial and pre-dispositional secure detention should not be used due to the lack of more appropriate facilities, such as residential placements, mental health & substance abuse treatment facilities, alternative schools, etc. except in extreme circumstances when the wellbeing of the juvenile requires such placement pending an appropriate alternative placement.

III. POST-DISPOSITIONAL SECURE DETENTION:

Post-Dispositional Detention placements are authorized by Virginia Law for short term punitive sentencing and treatment sentencing for a period of up to six months.

A. POST-DISPOSITIONAL "TREATMENT PLACEMENT"

- **16.1-284 .1 (B)** allows for a detention sentence for juveniles ages fourteen to seventeen for a period of up to six months as an alternative to a commitment to DJJ. The Code excludes juveniles found guilty of a violent juvenile felony or a juvenile released from DJJ within the past 18 months. The Code requires a referral process for appropriateness and monthly court reviews. The Norfolk PD program is licensed by the Board of Juvenile Justice to house no more than 16 juveniles. The juveniles in this program are housed in the secure detention facility.

The purpose of the PD program is to offer the courts an alternative to a DJJ commitment for those juveniles the court believes will benefit from local services as a deterrent from future illegal activities or incarceration. The program is not designed to house juveniles that are not amenable to treatment services, that have major mental health issues or major educational deficits, or for juveniles waiting for appeals or being held in protection as a witness. Code intent is not for a juvenile to serve a period of six months, the intent is for a juvenile to have up to six months to stabilize their behavior and accomplish the identified treatment goals that will prepare them for a transition to a less secure environment.

THIS HAS PROVEN TO BE A HIGHLY EFFECTIVE PROGRAM AND ITS USE IS ENDORSED AND ENCOURAGED.

B. POST-DISPOSITIONAL "NON-TREATMENT" PLACEMENTS"

1. SHORT-TERM SENTENCES.

16.1-284.1 (A) allows the juvenile court judge to sentence youth 14 and above to detention as a disposition.

2. VIOLATION OF COURT ORDER.

16.1-292 allows a sentence of up to 10 days for a child 14 or older violating a valid court order, usually for truancy or chronic runaways.

3. CONTEMPT OF COURT.

18.2-456 allows the juvenile court judge to punish summarily for behavior committed in the courtroom or in the presence of the judge.

THOSE INVOLVED IN NORFOLK'S JUVENILE JUSTICE PROCESS AGREE THAT DETENTION SENTENCES OF A NON-TREATMENT NATURE SHOULD BE DISCOURAGED FOR NON-SERIOUS OFFENDERS FOR THE FOLLOWING REASONS :

- *Detention mixes minor offenders who pose low risk to the community with serious and violent offenders, thereby placing the minor offender at risk of harm or abuse. This type of mixing also makes the minor offender more inclined toward criminal behavior in the future as supported by research reported in the Justice Policy Institute publication *The Dangers of Detention*.*
- *Detention uses critical holding space for minor offenders and thereby increases the possibility of overcrowding and the need to sleep more than one detainee per room thus increasing personal safety risks.*
- *There is no limit on the number of such sentences as there is with post-dispositional treatment sentences that are capped at 20% of facility capacity.*
- *Most importantly, the use of such sentences ignores the availability of other serious consequences that can be imposed for non-compliant behavior. These include Community Service, Saturday School, the Weekend Incentive and Sanction Program , Home Confinement, etc. It is believed that these consequences are more appropriate, more effective and create less personal risks for minor offenders and CHINS than incarceration.*

- *It is fiscally responsible to use less costly detention alternative programs for non-serious offenders rather than expensive(\$186.00 per day)secure detention resources.*

IV. DETENTION ALTERNATIVE PROGRAMS

DETENTION ALTERNATIVES INCLUDE A WIDE RANGE OF PROGRAMS WITH VARYING LEVELS OF SUPERVISION. THESE PROGRAMS EXIST TO HELP ENSURE THAT JUVENILES WITH PENDING CHARGES REMAIN OFFENSE FREE AND APPEAR IN COURT AS REQUIRED.

NORFOLK USES THE FOLLOWING DETENTION ALTERNATIVE PROGRAMS :

- **SHELTER CARE**
 - **Barraud House**
 - **FOG Homes**
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- **OUTREACH DETENTION -ELECTRONIC MONITORING.**
- **GLOBAL POSITIONING SYSTEM (GPS).**
- **PERSONAL SURVEILLANCE.**
- **IMMEDIATE HOME BASED SERVICES.**
- **HOUSE ARREST SET AND MONITORED BY PROBATION OFFICER.**

A. SHELTER CARE :

The purpose of Shelter Care is to serve medium and low risk youth in need of intensive supervision and/or an out of home placement while their case is pending before the court or while waiting for other placement arrangements to be completed. In addition to medium and low risk delinquent offenders, shelter care may serve CHINS offenders. In Norfolk, shelter care is provided in two separate facilities, one serving males and the other females.

- a. **Barraud House** is a 14 bed group home for males operated under contract by Paramount Youth Services, Inc.

- b. **FOG HOMES** are “family oriented group homes” or specialized foster homes serving as many as six females at a time operated under contract by The James Barry Robinson Institute.

CRITERIA for PLACEMENT : 16.1-248.1 (B) of the Code of Virginia establishes criteria for placement of youth in shelter care :

- Any juvenile eligible for placement in secure detention.
- Any juvenile who failed to comply with the conditions of a conditional release.
- Any juvenile whose parents cannot be reached in a reasonable period of time or refuse to permit the youth to return home and no other responsible person is available to whom the youth can be released.
- Any juvenile who refuses to return home.

Additionally, Norfolk’s shelter care facilities may be used :

- As a step-down from secure detention for a juvenile determined as appropriate for a less restrictive placement by judicial order.
- As a step-up placement for a juvenile who has failed to adjust to a less restrictive placement.
- As a placement for a youth before the court awaiting placement in a group home, residential treatment facility, or other out of home placement.

B. OUTREACH DETENTION :

Outreach Detention provides supervision and surveillance to juveniles in their own homes while their case is processed by the court. This supervision is conducted by a counselor of the Norfolk Juvenile Detention Center who establishes strict rules and makes frequent home and community contacts with the youth and parents/guardians. Its purpose is to serve low and medium risk youth who have a family support system able and willing to assist in providing needed supervision.

CRITERIA for PLACEMENT :

- As an alternative at Intake to secure detention or shelter care for youth charged with first class misdemeanors or felonies with DAI scores below 15 or with DAI scores above 15 that are mitigated down for good cause.

- As an alternative at Intake to secure detention or shelter care for youth charged with other misdemeanors or CHINS offenses whose behavior indicates a need for additional supervision while their case is pending before the court.
- As an alternative to secure detention as determined by judicial order.
- As a step-down from secure detention or other more restrictive Detention Alternative Program as determined by judicial order.

In addition to the above criteria, any juvenile charged with a felony or class one misdemeanor to be considered at Intake for placement in Shelter care or Outreach Detention must have a DAI completed by the Intake Officer with a score of 10 to 14. If the juvenile's score is below 10, the Intake Officer must indicate aggravating circumstances which justify the placement. If above 10, the score can be mitigated to allow the juvenile's release if circumstances justify such action. The DAI does not have to be completed for the placement of a CHINS offender in shelter care.

C . ELECTRONIC MONITORING and GLOBAL POSITIONING SYSTEM :

Electronic Monitoring (EM) and Global Positioning System (GPS) utilizes an ankle bracelet that feeds information through a telephone/computer network to ensure that youth are in their homes if not in school or other approved activities. EM in Norfolk is operated under contract by BI of Colorado and GPS is operated under contract by iSECURETRAC. The technical features of the programs are supplemented by strict rules and random home and community contacts to ensure compliance. EM and GPS are designed to serve medium and low risk offenders needing close community supervision while their case is pending before the court. The programs can also serve high risk offenders initially placed in secure detention if judicially ordered.

CRITERIA for PLACEMENT :

EM and GPS may be used when maximum community surveillance is desired and :

- As a step-down from secure detention or shelter care by judicial order.
- As a step-up from Outreach Detention when the youth has failed to fully comply with program rules.

D. PERSONAL SURVEILANCE :

This service is provided by contract with Sentencing Options and funded through VJCCA. Juveniles on probation or parole receive random face to face contacts on a daily basis with results reported back to the supervising probation officer.

CRITERIA for PLACEMENT :

Personal Surveillance may be used to support community supervision provided by the probation officer. As a detention alternative, it may be used in the following situations :

- As a release option at Intake for juveniles on probation or parole.
- As a step down from secure detention or shelter care for juveniles on probation or parole.

E. IMMEDIATE HOME BASED SERVICES :

Several private home based supervision vendors work closely with the Intake Unit to provide immediate supervision and treatment services in appropriate cases. These vendors are available to respond in person within one hour during normal business hours and evenings. Payment for these services is through VJCCA, Medicaid and other forms of insurance. The home based counselor establishes rules, makes home and community contacts and conducts regular counseling as needed.

CRITERIA for PLACEMENT :

Private home based supervision and treatment may be used in delinquent or CHINS cases where there is a need for home and community supervision and also a need for individual and family counseling in the following situations :

- As a diversion option from Intake for low risk offenders.
- As a release option at Intake for low risk offenders with DAI score below 15.
- As a step down from secure detention or shelter care by judicial order.

F. HOUSE ARREST SET BY PROBATION OFFICER :

House arrest may be imposed as a graduated sanction at any time it is warranted for a juvenile already on court ordered probation or juvenile parole. This requires the juvenile to remain in his or her home except for specific times and activities approved by the probation officer. In cases when there are pending charges, the probation officer may choose to impose house arrest for medium and low risk offenders.

CRITERIA for PLACEMENT :

House arrest may be used for juveniles currently on juvenile probation or parole in the following situations :

- At Intake as a release option for a juvenile with a DAI score below 15.
- As a step-down from secure detention or shelter care by judicial order.

THIS DOCUMENT WAS DRAFTED AND APPROVED BY THE JDAI SUB-COMMITTEES AND STEERING COMMITTEE WHICH IS COMPOSED OF KEY STAKE HOLDERS IN THE NORFOLK JUVENILE JUSTICE SYSTEM AND APPOINTED BY THE NORFOLK JUVENILE COURT JUDGES. IT ALSO REFLECTS THE DETENTION PHILOSOPHY AND VALUES OF JUDICIAL DISTRICT 2-A (Accomac and Northampton Counties on Virginia's Eastern Shore), WHICH UTILIZES THE NORFOLK JUVENILE DETENTION CENTER AND IS AN ACTIVE JDAI PARTICIPANT. THE DOCUMENT IS NOT INTENDED TO BE ABSOLUTE IN NATURE, SINCE JUDGES HAVE DISCRETION TO DO ANYTHING VIS A VIS DETENTION THAT IS PERMITTED BY LAW. THE INTENT OF THE DOCUMENT IS TO GUIDE AND INFLUENCE DETENTION DECISIONS AND PRACTICE.

Approved by the Norfolk JDAI Steering Committee on: April 25, 2007